



# United States Department of the Interior

## OFFICE OF THE SECRETARY

Washington, D.C. 20240

June 10, 1998

Department of the Interior Acquisition Policy Release (DIAPR) 1998 - 5

**Subject: THE AUTHORIZATION OF DIRECT AWARDS TO 8(a) CONTRACTORS**

1. **Purpose:** To redelegate to warranted contracting officers the authority to award contracts directly to program participants under Section 8(a) of the Small Business Act. This authorization is conditioned upon full compliance with the Memorandum of Understanding (MOU) between the Department of the Interior and the Small Business Administration (SBA) and the class deviation, as amended, to the Federal Acquisition Regulation which are enclosures to the attached SBA letter dated May 29, 1998.

2. **Effective Date:** Effective upon issuance.

3. **Expiration Date:** May 4, 1999.

4. **Summary of changes:** Through the authority delegated to the Department of the Interior, contracting officers may now award purchase orders and contracts directly to 8(a) contractors. The process has been significantly streamlined by making a number of changes which are not limited to, but include:

- o Elimination of the requirement for SBA offering or acceptance letters for purchase orders or contracts not exceeding \$100,000. See FAR class deviation 19.803-70 Simplified procedures for 8(a) acquisitions under MOUs.

- o Elimination of the need to obtain SBA approval of purchase orders and contracts awarded to eligible 8(a) firms. The use of tripartite agreements has been discontinued. See MOU paragraph II b.

- o Reduction of SBA's processing of offering letters to five working days for 8(a) acquisitions exceeding \$100,000. If SBA fails to respond to an offering letter within the five days, the contracting officer may assume the request is approved. See MOU paragraphs IV a 2 and 3.

- o Creation of tracking and reporting performance measures. Note that the MOU requires that contracting officers:

- Send SBA copies of Commerce Business Daily announcements for all competitive 8(a) procurements. See MOU paragraph IV b 6.

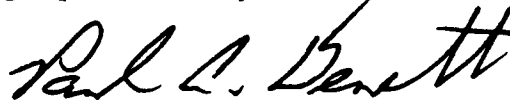
- Send SBA a copy of all award documents regardless of dollar value. Copies of contracts sent to SBA must include the SBA requirement number. See MOU paragraph IV b 9.

- Report all 8(a) contracting actions quarterly. See MOU paragraph IV b 10. The Office of Small and Disadvantaged Business Utilization will be issuing the instructions for the data collection and reporting requirements separately.

- Coordinate any contract terminations or novation agreements with SBA. See MOU paragraph IV b 11 and FAR clause 52.219.70XX Section 8(a) direct award, which is to be used in all direct award purchase orders and contracts issued under this MOU.

5. Action Required: Immediate distribution of this policy release to all contracting officers. An electronic copy is not available at this time.

6. Contacts: General questions about this policy release may be directed to Dean Titcomb on (202) 208-3433. Questions about reporting requirements may be directed to Frank Gisondi on (202) 208-4907.

A handwritten signature in black ink, appearing to read "Paul A. Denett". The signature is fluid and cursive, with a large, stylized "P" and "D".

Paul A. Denett  
Director of Administration and  
Senior Procurement Executive

**Attachment**

cc: Debra Sonderman  
Ralph Rausch



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

MAY 29 1998

Mr. Ralph Rausch  
Director, OSDBU  
Department of the Interior  
1849 C Street, NW  
Rm. 2727  
Washington DC 20240

Dear Mr. Rausch:

The U.S. Small Business Administration (SBA) recently announced a Federal acquisition reinvention initiative to delegate execution authority on 8(a) contracts to procuring agencies.

Administrator Aida Alvarez has signed all the Memoranda of Understanding (MOU) that delegated this authority, including the one for your agency. Please see Enclosure I. As you may know, the SBA has received approval from the Civilian Agency Acquisition Counsel (CAAC) for a Federal Acquisition Regulation (FAR) deviation, which gives all agencies with executed MOU's the FAR-based authority to contract directly with 8(a) firms. Please see Enclosure II.

We at the SBA thank you and your agency for your support of this initiative. I am pleased to see that your agency accepted the challenge of taking the steps necessary to enhance the efficiency of the 8(a) contracting process. If you have any questions, please do not hesitate to call me at (202) 205-6412 or Mr. Jim Parker at (202) 205-3644.

Sincerely

William A. Fisher  
Acting Associate Administrator for  
Minority Enterprise Development

Enclosures

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**U.S. SMALL BUSINESS ADMINISTRATION**  
**and the**  
**U.S. DEPARTMENT OF THE INTERIOR**

**I. PURPOSE**

The purpose of this Memorandum of Understanding (MOU) between the U.S. Small Business Administration (SBA) and the U.S. Department of the Interior (DOI) is to establish streamlining procedures for expediting the award of requirements pursuant to Section 8(a) of the Small Business Act (15 USC 644, as amended) (hereinafter the "Act").

**II. OBJECTIVES**

- a. To reduce the interval between the time DOI sends an offering letter to SBA and SBA acceptance of the offering to a maximum of five (5) working days.
- b. To eliminate SBA approval of contracts executed under the authority of this MOU.
- c. To establish a uniform policy and procedure regarding application of Simplified Acquisition Procedures (SAP) to the 8(a) contracting process, when applicable, through individual MOUs and subsequent revisions to the Federal Acquisition Regulation (FAR).

**III. SCOPE**

This MOU provides for the award of both contracts and purchase orders under the provisions of Section 8(a) of the Act as implemented by the FAR (48 CFR) and SBA's Minority Enterprise Development Program Regulations (13 CFR 124).

This MOU encompasses all competitive and non-competitive acquisitions offered by Interior and accepted by the SBA into the 8(a) program, including but not limited to: Acquisition of Commercial Items (FAR Part 12), awards under SAP (FAR Part 13), awards resulting from Sealed Bids (FAR Part 14), Contracting by Negotiation (FAR Part 15), and Construction and Architect-Engineering Contracts (FAR Part 36).

This MOU shall apply to all field offices of the SBA and DOI throughout the United States.

#### **IV. RESPONSIBILITIES**

**a. The SBA shall:**

1. delegate to DOI through this MOU, with specific authority to redelegate to warranted contracting officers, as appropriate, its authority under Section 8(a)(1)(A) of the Act to enter into 8(a) prime contracts and its authority under Section 8(a)(1)(B) of the Act to subcontract the performance of that contract to an eligible 8(a) Program Participant (Participant);
2. establish and implement uniform procedures for use by all SBA field offices in conjunction with this MOU. As a minimum, these procedures shall inform the field offices of this MOU and establish a procedure for communicating the offer/acceptance of 8(a) requirements within five (5) working days between the time the SBA receives an offer letter from any Interior procurement office and an SBA acceptance letter is issued;
3. review DOI's offer letter and issue an acceptance letter, where appropriate, within five (5) working days of receipt. Acceptance goes to all elements of eligibility (e.g., determinations of adverse impact, Standard Industrial Classified (SIC) code appropriateness, and program eligibility). If SBA does not respond to the offer letter within the five days, DOI shall assume its request is approved. The SBA will make a final determination of size eligibility for the procurement as of the date of the Participant's initial offer which includes the anticipated dollar value of the requirement, including any options;
4. provide 8(a) Participants with assistance on proposal development and/or contract negotiations when requested;
5. select an appropriate 8(a) Participant when DOI submits an "open" offer letter for a sole source requirement;
6. retain the right to appeal contract disagreements to the Secretary of the DOI

on behalf of the Participant pursuant to 13 CFR 124.320(b);

7. reserve the right to perform onsite contract surveillance reviews at the DOI procurement office to ensure compliance with this MOU and applicable regulations, identify problems, and recommend corrective action; and
8. reserve the right to withdraw any delegation issued as a result of this MOU, but will consult with the DOI Senior Procurement Executive prior to doing so.

**b. DOI shall:**

1. enter into prime contracts under Section 8(a)(1)(A) of the Act and may redelegate this authority to DOI warranted contracting officers.
2. determine which requirements are suitable to be offered to the 8(a) program in accordance with FAR Subpart 19.8, and, where appropriate, identify, in conjunction with the appropriate servicing SBA office(s), 8(a) participants capable of performing these requirements;
3. submit the offer letter for new sole source requirements to the SBA's District Office responsible for servicing the selected Participant;
4. submit the "open" offer letter for sole source requirements, where a Participant has not been selected for a requirement, to the SBA field office that services the geographical area where the Interior procurement activity is located;
5. submit the offer letter for competitive 8(a) procurements to the SBA field office that services the geographical area where the Interior procurement activity is located, except that offer letters for construction work will be sent to the SBA field office located in the geographical area where the work will be performed;
6. advertise all competitive 8(a) procurements in the Commerce Business Daily in accordance with FAR.19.805 and provide a copy of the announcement to SBA's coordinating office;

7. ensure that all applicable requirements of the FAR and 13 CFR 124 are followed;
8. submit requirements to DOI legal counsel for review and determination of legal sufficiency in accordance with agency procedures;
9. include the SBA servicing District Office on contract distribution lists, and annotate the SBA requirement number on initial award documents only;
10. submit a quarterly summary report of all 8(a) contracting actions to the SBA's Assistant Administrator for Business Development, Office of Minority Business Enterprise. This report, to be submitted electronically, shall include the contractor's name, contract number, award amount and award date, contract type, period of performance; and, as appropriate, the modification number, type, date, and amount, and delivery order/task order number, date, and amount; and
11. ensure that all contracts awarded pursuant to this MOU contain special provisions requiring contracting officers to coordinate contract termination and novation proceedings relating to contracts executed pursuant to this MOU with the SBA prior to initiating action.

## **V. CONTRACT AWARD**

Following SBA acceptance of a DOI requirement and subsequent solicitation, the cognizant CO shall execute a prime contract (or purchase order) between the DOI contracting activity and the 8(a) participant. The award document will be completed and executed in the same manner as an award made directly to the participant vendor.

Each participating DOI acquisition activity shall issue the procurement instrument number, and a single DOI CO signature will be used in executing the contract. A contract number from SBA will not be issued, nor will a signature by an SBA CO be required.

## **VI. MEASURE OF EFFECTIVENESS**

To determine the effectiveness of these streamlined procedures, DOI will accumulate data which will include the number of awards and total dollar amount for contracts and purchase orders and any other information deemed useful in determining the effectiveness of this project. Specific data tracking elements will be defined during the initial period of implementation.

## **VII. TERM**

This MOU will take effect on the date of acceptance by the SBA and will remain in effect for one year, at which time, it may be renewed by mutual agreement between SBA and the DOI.

## **VII. AMENDMENTS**

This MOU may be amended at any time by mutual agreement between the SBA's Associate Administrator for Minority Enterprise Development and DOI's Senior Procurement Executive. All amendments will be in writing.

## **IX. TERMINATION**

This MOU may be terminated by either the SBA's AA/MED or the DOI's Senior Procurement Executive upon thirty (30) days advance written notice.

## **X. ADMINISTRATION**

The points of contact for administrative matters pertaining to this MOU are:

For DOI:

Dean A. Titcomb  
Office of Acquisition and Property  
Management  
202/208-3433

For the SBA:

Mr. William A. Fisher  
Acting Associate Administrator  
Minority Enterprise Development  
202/208-6412



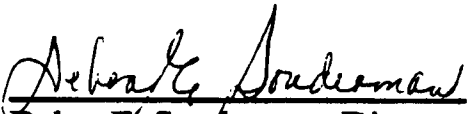
Ralph W. Rausch, Director  
Office of Small and Disadvantaged  
Business Utilization  
202/208-7438

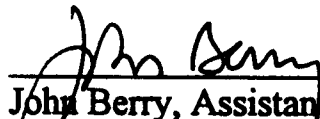
Arthur E. Collins, Jr.  
Assistant Administrator for Business  
Development  
202/205-6423

# **XI. ACCEPTANCE**

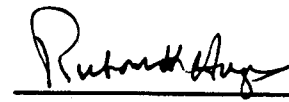
The undersigned hereby accept the terms of this MOU:


For DOI:

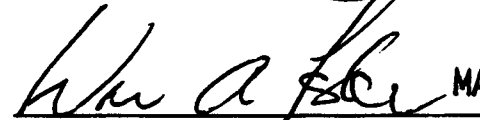
  
Debra E. Sonderman, Director  
Office of Acquisition and Property  
Management

  
John Berry, Assistant Secretary -  
Policy, Management and Budget

For SBA:

 MAY 6 1998  
RICHARD L. HAYES Associate  
Deputy Administrator for Government  
Contracting and Minority Enterprise  
Development

 MAY 6 1998  
Aida Alvarez, Administrator  
U.S. Small Business Administration

 MAY 6 1998  
Mr. William A. Fisher  
Acting Associate Administrator  
Minority Enterprise Development

U.S. General Services Administration  
1800 F Street, N.W.  
Washington, DC 20405

Federal Acquisition Policy Division (MVR)

Date: May 5, 1998

**FROM: VICTORIA MOSS**  
**FAR Analyst**

**TO: CAAC MEMBERS**

Fax No: (202) 501-4067

Phone No: (202) 501-4764

Location: MVR

Total No. Of pages  
including cover sheet: 1

For any changes to the  
CAAC personnel,  
please call Rose Jordan  
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Deborah Erwin	208 0085

**CAAC Letter 98-03, Direct 8(a) Contracting**

Please substitute the following paragraph 19.811-3(f) in the CAAC letter:

**19.811-3 Contract Clauses.**

(f) The contracting officer shall insert the clause at 52.219-70XX, Section 8(a) Direct Award, in direct award contracts and purchase orders processed under the MOU cited at 19.800; the clauses at 52.219-11, Special 8(a) Contract Conditions, 52.219-12, Special 8(a) Subcontract conditions, and 52.219-17, Section 8(a) award, shall not be used.



U.S. GENERAL SERVICES ADMINISTRATION  
Office of Governmentwide Policy

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MAY 1 - 1998

CIVILIAN AGENCY ACQUISITION COUNCIL LETTER 98-3

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM:

*Edward C. Loeb*  
EDWARD C. LOEB  
CHAIRMAN  
CIVILIAN AGENCY ACQUISITION COUNCIL

SUBJECT: Direct 8(a) Contracting

After discussions with the Small Business Administration, I am issuing this CAAC Letter to provide model coverage for civilian agencies that are entering into Memoranda of Understanding (MOUs) with the SBA to award contracts awarded pursuant to Section 8(a) of the Small Business Act directly to 8(a) concerns. Currently, the FAR requires procuring activities to issue a prime contract with the SBA, which in turn subcontracts performance of the contract to the 8(a) firm.

The Civilian Agency Acquisition Council (CAAC) has reviewed the attached model coverage. Pending a change to the FAR, civilian agencies may use this language as the basis for their class deviations. The FAR will be amended following promulgation of an SBA final rule. This CAAC Letter serves as evidence of consultation with the Chairman of the CAAC, as required by FAR 1.404(a)(1). This consultation will apply only to deviations for 8(a) contracts that are executed under a MOU that is consistent with the attached model coverage.

Enclosure

1800 F Street, NW, Washington, DC 20405-0002

**Direct 8(a) Contracting  
Model Coverage**

**Small Business Programs (FAR Part 19)**

**Subpart 19.800 General**

Add subparagraph (d):

(d) Utilizing Memoranda of Understanding (MOUs), the SBA has delegated its authority to contract directly with program participants under Section 8(a) of the Small Business Act to the Senior Procurement Executives of various Federal procuring activities. If an agency is covered by an MOU, a contract may be awarded directly to an 8(a) firm on either a sole source or competitive basis. The SBA reserves the right to withdraw any delegation issued as a result of an MOU; however, any such withdrawal shall have no effect on contracts currently awarded under the MOU.

**19.803 Selecting acquisitions for the 8(a) Program.**

Add 19.803-70 to read:

**19.803-70 Simplified procedures for 8(a) acquisitions under MOUs.**

Procuring activities may use the simplified acquisition procedures of Part 13 to issue purchase orders or contracts, not exceeding \$100,000, to 8(a) Participants. The following applies to such acquisitions:

(a) Neither offering letters to, nor acceptance letters from the SBA are required.

(b) The procuring activity will use the SBA's PRO-Net database on the Internet (<http://www.sba.gov>) to establish that the selected 8(a) firm is a current program participant.

(c) The contracting officer will issue the purchase order directly to the 8(a) firm.

(d) Once an 8(a) contractor has been identified, the agency contracting officer will establish the price with the selected 8(a) contractor and prepare and issue a purchase order or contract in accordance with the provisions of Part 13. The applicable clauses prescribed in 19.811-3 shall be included in the award document.

(e) The Contracting Officer will forward to the SBA District Office serving the 8(a) firm a copy of the purchase

order or contract within five days after the order is issued.

**19.804-2 Agency offering.**

(a) When applicable, this notification must identify that the offering is in accordance with the MOU identified in 19.800.

**19.804-3 SBA Acceptance.**

Add new 19.804-70 which will read:

**19.804-70 SBA Acceptance under MOUs for acquisitions exceeding \$100,000.**

(a) Acceptance of requirements covered by MOU's on acquisitions that exceed \$100,000.

(1) The SBA's decision whether to accept the requirement will be transmitted to the contracting agency in writing within 5 working days of receipt of the offer.

(2) The SBA may request, and the contracting agency may grant, an extension beyond the five-day limit.

(3) SBA's acceptance letters should be faxed or e-mailed to the offering contracting agency.

(4) If the procuring activity has not received an acceptance or rejection of the offering from SBA within 5 days of SBA's receipt of the offering letter, the procuring activity may assume that the requirement has been accepted and proceed with the acquisition.

(b) The contents of the acceptance letter shall be limited to the eligibility of the recommended 8(a) contractor.

**19.805 Competitive 8(a).**

**19.805-2 Procedures.**

Add to 19.805-2 new paragraphs (a) and (c)(3) to read as follows:

(a) 8(a) acquisitions may also be conducted using simplified acquisition procedures (see Part 13). The award process is significantly streamlined where an MOU is in place.

(c)(3) For requirements exceeding \$100,000 processed under the MOU cited in 19.800, the contracting officer shall submit the name, address, and telephone number of

the low offeror (in sealed bid requirements) or the apparent successful offeror (in negotiated acquisitions) to the SBA Business Opportunity Specialist at the field office servicing the identified 8(a) firm. The SBA will determine the eligibility of the firm(s) and advise the contracting officer within 2 working days of the receipt of the request. If the firm is determined to be ineligible, the contracting officer will submit information on the next low offeror or next apparent successful offeror (as applicable) to the cognizant SBA field office.

**19.806 Pricing the 8(a) contract.**

Add paragraph (a) to read:

(a) When required by Subpart 15.4, the contracting officer shall obtain certified cost or pricing data directly from the 8(a) contractor if the contract is being awarded under the MOU cited in 19.800.

**19.808-1 Sole source.**

Add new paragraphs 19.808-1 (a) and (b) to read:

(a) If the acquisition is conducted under an MOU cited in 19.800, the 8(a) contractor is responsible for negotiating with the agency within the time established by the agency. If the 8(a) contractor does not negotiate within the established time and the agency cannot allow additional time, the agency may, after notification and approval by SBA, proceed with the acquisition from other sources.

(b) If the acquisition is conducted under an MOU cited in 19.800, the agency is delegated the authority to negotiate directly with the 8(a) participant; however, if requested by the 8(a) participant, the SBA may participate in negotiations.

**19.811-1 Sole Source.**

19.811-1. Add new paragraph (d) to read as follows:

(d) If the award is to be made under an MOU cited in 19.800, the contract to be awarded by the procuring activity to the 8(a) firm shall be prepared in accordance with the procuring activity's normal procedures, given contract type and dollar amount, that the procuring activity would use for a similar, non-8(a) acquisition, except for the following:

(1) The award form shall cite 41 U.S.C. 253 (c)(5) or 10 U.S.C. 2304 (c)(5) (as appropriate) and 15 U.S.C.

637(a) as the authority for use of other than full and open competition.

(2) Appropriate contract clauses shall be included, as necessary, to reflect that the acquisition is an 8(a) contract made under the authority of an MOU cited in 19.800.

(3) The procuring activity shall include SBA's requirement number on the contract unless the acquisition does not exceed \$100,000.

(4) A single award document shall be used between the agency and the 8(a) contractor. As such, a single signature by the agency's contracting officer who is identified as having concurrent authority under an MOU cited in 19.800 to enter into 8(a) contracts will suffice (i.e., an SBA signature will not be required). The 8(a) contractor's signature shall be placed on the award document as the prime contractor. The 8(a) contractor's name and address shall be placed in the  awarded to  or  contractor name  block on the appropriate forms.

#### **19.811-2 Competitive.**

Add paragraphs (a) and (b) to read as follows:

(a) If the award is to be made under delegation of 8(a) contracting authority, competitive contracts for 8(a) firms will be prepared in accordance with the same standards as 8(a) sole source contracts. See 19.811-1.

(b) If the acquisition is conducted under an MOU cited in 19.800, the process for obtaining signatures shall be as specified in 19.811-1(d).

#### **19.811-3 Contract Clauses.**

Add paragraphs 19.811-3 (d)(3) and (f) to read:

(d)(3) The clause at 52.219-18 will be used with the Alternate (Deviation) at 52.219-18, when the acquisition is processed under the MOU cited in 19.800.

(f) The contracting officer shall insert the clause at 52.219-70XX, Section 8(a) Direct Award, in solicitations and contracts that exceed \$100,000 and are processed under the MOU cited at 19.800; the clauses at 52.219-11, Special 8(a) Contract Conditions, 52.219-12, Special 8(a) Subcontract conditions, and 52.219-17, Section 8(a) award, shall not be used.

#### **19.812 Contract Administration.**

Add 19.812 (d) to read:

(d) Awards under the MOU cited in 19.800 are subject to 15 U.S.C. 637(a)(21). These contracts contain the clause entitled, Section 8(a) Direct Award, that requires the 8(a) contractor to notify the SBA and the contracting officer when ownership of the firm is being transferred.

**Part 52**  
**Solicitation Provisions and Contract Clauses**

**52.219-18 Alternate for acquisitions under 19.800**

(Deviation) ( date )

When the acquisition is processed under the MOU cited in 19.800, substitute the following for the paragraph (c) in 52.219-18:

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

**52.219-70XX Section 8(a) Direct Awards.**

As prescribed in 19.811-3(f), insert the following clause:

**Section 8(a) Direct Award ( date )**

(a) This contract is issued as a direct award between the contracting activity and the 8(a) contractor pursuant to the Memorandum of Understanding between the Small Business Administration (SBA) and the [Insert Agency Name]. SBA does retain responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and providing counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is:

[To be completed by Contracting Officer at time of award]

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the contracting activity shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with SBA prior to processing any novation agreement. The contracting activity may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) to notify the Contracting Officer, simultaneous



with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(2) it will adhere to the requirements of 52.219-14, Limitations on Subcontracting.

(End of clause)